

PATENT APPLN. NO. 10/625,724
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

REMARKS

Claim Rejections - 35 USC § 102/103

Claims 1-2 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ishii et al. (U.S. Patent No. 6,790,563) (hereinafter: "Ishii"). Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishii in view of Tani et al. (U.S. Patent No. 6,649,304) (hereinafter: "Tani").

The Office identifies Ishii as disclosing a battery including each of the elements (i.e., limitations) recited in claim 1 of the application. However, Ishii does not disclose a nickel metal hydride storage (secondary) battery within the scope of claim 1 which includes (1) a negative electrode comprising a hydrogen absorbing alloy containing aluminum and (2) an alkaline electrolyte.

The battery of Ishii is a primary battery. The negative electrode of Ishii can be an alloy of aluminum (Col. 6, lines 8-16) but none of the alloys is a hydrogen absorbing alloy. The electrolyte of the battery of Ishii is required to supply at least one of a sulfate ion and a nitrate ion (Col. 7, lines 56-67) and is not an alkaline electrolyte.

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Tani is cited, as it was in the first Action, only as teaching a layer comprising a hydroxide or oxide of an element selected from calcium, strontium, scandium, yttrium, lanthanoids and bismuth that is formed on the surface of the positive electrode active material and does not overcome the insufficiencies of Ishii explained above.

For the above reasons, Ishii is insufficient to support anticipation of the claims of the present application under 35 U.S.C. § 102 and, combined with Tani, is insufficient to support a case of *prima facie* obviousness of the claims of the present application under 35 U.S.C. § 103(a).

Removal of the 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) rejections of the claims of the application and a notice of allowability of the claims are in order and are respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated September 15, 2005, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of

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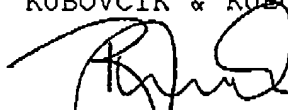
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time. The fee for any such extension may be charged to Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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